

From: [LERS, EOIR \(EOIR\)](#)
To: [LERS, EOIR \(EOIR\)](#); [All of Judges \(EOIR\)](#); [BIA BOARD MEMBERS \(EOIR\)](#); [BIA ATTORNEYS \(EOIR\)](#); [All of OCIJ JLC \(EOIR\)](#); [Alder Reid, Lauren \(EOIR\)](#); [Allen, Patricia M. \(EOIR\)](#); [Baptista, Christina \(EOIR\)](#); [Barnes, Jennifer \(EOIR\)](#); [Bauder, Melissa \(EOIR\)](#); [Berkeley, Nathan \(EOIR\)](#); [BIA TEAM JLC](#); [BIA TEAM P \(EOIR\)](#); [Brazill, Caitlin \(EOIR\)](#); [Burgie, Brea \(EOIR\)](#); [Burgus, Elizabeth \(EOIR\)](#); [Carballo, Vivian \(EOIR\)](#); [Cicchini, Daniel \(EOIR\)](#); [Cowles, Jon \(EOIR\)](#); [Curry, Michelle \(EOIR\)](#); [Evans, Brianna \(EOIR\)](#); [Grodin, Edward \(EOIR\)](#); [Hartman, Alexander \(EOIR\)](#); [Kaplan, Matthew \(EOIR\)](#); [King, Jean \(EOIR\)](#); [Korniluk, Artur \(EOIR\)](#); [Lang, Steven \(EOIR\)](#); [Lovejoy, Erin \(EOIR\)](#); [Martinez, Casey L. \(EOIR\)](#); [Noferi, Mark \(EOIR\)](#); [Park, Jeannie \(EOIR\)](#); [Powell, Karen B. \(EOIR\)](#); [Ramirez, Sergio \(EOIR\)](#); [Rimmer, Phillip \(EOIR\)](#); [Rodrigues, Paul A. \(EOIR\)](#); [Rodriguez, Bernardo \(EOIR\)](#); [Rothwarf, Marta \(EOIR\)](#); [Sanders, John W. \(EOIR\)](#); [Schaaf, Joseph R. \(EOIR\)](#); [Sheehey, Kate \(EOIR\)](#); [Stutman, Robin M. \(EOIR\)](#); [Taufa, Elizabeth \(EOIR\)](#); [Vayo, Elizabeth \(EOIR\)](#); [Wilson, Amelia \(EOIR\)](#)
Cc: [McHenry, James \(EOIR\)](#); [Reilly, Katherine \(EOIR\)](#); [Santoro, Christopher A \(EOIR\)](#); [Moutinho, Deborah \(EOIR\)](#); [Adams, Amanda \(EOIR\)](#); [Pease, Jeffrey \(EOIR\)](#); [Morgan, Kenosha \(EOIR\)](#); [Macri, Andrea \(EOIR\)](#); [EOIR Library \(EOIR\)](#)
Subject: Policy & Case Law Bulletin - April 27, 2018
Date: Friday, April 27, 2018 3:10:00 PM

**EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW**
Office of Policy | Legal Education and
Research Services Division

| Policy & Case Law Bulletin
April 27, 2018

Federal Agencies

DOJ

- [BIA Issues Decision in Matter of L-M-P- — EOIR](#)

27 I&N Dec. 265 (BIA 2018)

(1) The Department of Homeland Security has the authority to file a motion to reconsider in Immigration Court. (2) An applicant in withholding of removal only proceedings who is subject to a reinstated order of removal pursuant to section 241(a)(5) of the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(5) (2012), is ineligible for asylum.

- [Virtual Law Library Weekly Update — EOIR](#)

This update includes resources recently added to EOIR's internal or external Virtual Law Library, such as Federal Register Notices, country conditions information, and links to recently-updated immigration law publications.

DHS

- [USCIS Reports Convictions in Two Separate Immigration Fraud Cases](#)

"[T]wo immigration fraud perpetrators were sentenced to prison due to the considerable efforts of the [USCIS] Los Angeles Fraud Detection and National Security (FDNS) unit." On April 19, 2018, an individual who owned four schools was sentenced for enrolling hundreds of foreign nationals to fraudulently obtain immigration documents, which allowed them to remain in the United States as "students" – even though they rarely, if ever, attended classes. On April 18, 2018, an individual was sentenced for stealing the identity of a New York attorney and filing immigration petitions on behalf of dozens of foreign nationals who believed she was a legitimate lawyer.

DOS

- [DOS Releases the 2017 Country Reports on Human Rights Practices](#)

On April 20, 2018, DOS released the 2017 Country Reports on Human Rights Practices ([table of contents/interactive version](#)), which document the status of human rights and worker rights in nearly 200 countries and territories. "These reports are required by U.S.

law and are used by a variety of actors, including the U.S. Congress, the Executive branch, and the Judicial branch as a factual resource for decision making in matters ranging from assistance to asylum.”

USCIRF

- [USCIRF Releases 2018 Annual Report on International Religious Freedom](#)

On April 25, 2018, the U.S. Commission on International Religious Freedom (USCIRF) released its 2018 Annual Report ([full/abridged](#)), which documents religious freedom violations and progress in 28 countries during calendar year 2017, and recommends the designation of 16 countries as “countries of particular concern” (CPCs) under the International Religious Freedom Act of 1998 (IRFA).

Supreme Court

CERT. GRANTED

- [United States v. Stitt](#)

No. 17-765, 2018 U.S. LEXIS 2607 (April 23, 2018) ([consolidated with No. 17-766](#))

Question Presented: Whether burglary of a nonpermanent or mobile structure that is adapted or used for overnight accommodation can qualify as “burglary” under the Armed Career Criminal Act of 1984, 18 U.S.C. § 924(e)(2)(B)(ii).

- [United States v. Sims](#)

No. 17-766, 2018 U.S. LEXIS 2626 (April 23, 2018) ([consolidated with No. 17-765](#))

Question Presented: Whether burglary of a nonpermanent or mobile structure that is adapted or used for overnight accommodation can qualify as “burglary” under the Armed Career Criminal Act of 1984, 18 U.S.C. § 924(e)(2)(B)(ii).

Second Circuit

- [Cerro-Ramon v. Sessions](#)

No. 16-3747-AG, 2018 WL 1916196 (2d Cir. Apr. 24, 2018) (unpublished) (Motion)

The Second Circuit denied the PFR, concluding that the petitioner did not establish a prima facie case for suppression of his Form I-213, where the record evidence did not show that the traffic stop, from which the contents of the Form I-213 were derived, was “an egregious violation that was fundamentally unfair.”

Third Circuit

- [Estrada-Grajeda v. Attorney Gen. of United States](#)

No. 17-2668, 2018 WL 1877517 (3d Cir. Apr. 19, 2018) (unpublished) (Asylum-PSG)

The Third Circuit denied the PFR, concluding that the petitioner did not meet his burden of proving that, if removed to Guatemala, he would more likely than not be persecuted or tortured on account of his membership in the proposed particular social group of “drug addicts in Guatemala.” The court further determined that the IJ and Board properly found that the petitioner’s drug addiction was not immutable, that he had not shown a nexus between drug addiction and persecutory harm, and had not established a likelihood of torture.

Fifth Circuit

- [Tejada-Jimenez v. Sessions](#)

No. 17-60065, 2018 WL 1902382 (5th Cir. Apr. 20, 2018) (unpublished) (In Absentia)

The Fifth Circuit dismissed the PFR, concluding that the petitioner received proper notice of the hearing where the NTA was personally served on her and she was advised in Spanish of her rights. Furthermore, her argument that traumatic events surrounding her entry into the United States prevented her from understanding the information in the NTA was without merit.

Eighth Circuit

- [Mayorga-Rosa v. Sessions](#)

No. 17-1643, 2018 WL 1916796 (8th Cir. Apr. 24, 2018) (Asylum-PSG)

The Eighth Circuit denied the PFR, holding that the IJ was not required to seek clarification as to the particular social group for alien's asylum claim or make specific findings on each element of the asylum claim. The court also determined that the proposed social group of individuals in Guatemala who were once recruited and threatened by gang members, but who did not join or assist the gang, was not "defined with particularity," as required to support the asylum claim.

Ninth Circuit

- [Yusuf v. Sessions](#)

No. 15-70423, 2018 WL 1940226 (9th Cir. Apr. 25, 2018) (unpublished) (Asylum-Persecution)

The Ninth Circuit granted the PFR and remanded to the Board, holding in a pre-REAL ID Act case that record evidence compelled the conclusion that the petitioner suffered past persecution on account of his political opinion of refusing to join the militia, noting that punishment for resisting conscription can constitute persecution on account of political or religious beliefs. The court concluded that the petitioner established that the attempt to kill him was motivated at least in part by his political opinion because he refused to cooperate with his persecutors, he informed them of the political reason for his refusal, and they subsequently attempted to kill him.

Tenth Circuit

- [United States v. Hebert](#)

No. 17-8028, 2018 WL 1915851 (10th Cir. Apr. 24, 2018) (Divisibility)

The Tenth Circuit affirmed the district court, holding that the plaintiff's prior convictions under Ga. Code Ann. § 16-6-22.1(b) ("A person commits the offense of sexual battery when he intentionally makes physical contact with the intimate parts of the body of another person without the consent of that person.") related to sexual abuse under the categorical approach.

Eleventh Circuit

- [Sama v. U.S. Attorney Gen.](#)

No. 17-10711, 2018 WL 1870152 (11th Cir. Apr. 19, 2018) (Asylum-Persecution; Due Process)

The Eleventh Circuit denied the PFR, affirming the Board's finding that the petitioner did not suffer past persecution or have a well-founded fear of future persecution by the Cameroonian police on account of his political opinion supporting the gay community or imputed membership in the gay community. Substantial evidence also supported the Board's finding that the government was not unwilling or unable to control private actors where the Cameroonian police expressed interest in bringing the petitioner's attackers to justice and country reports indicated that conditions in Cameroon were improving with respect to the persecution of gay rights activists. The court reiterated that while the Board must consider all of the evidence, it need not specifically mention each claim or piece of evidence presented, and the court concluded that the Board did not violate the petitioner's due process rights where he was provided notice and an opportunity to be heard.